

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE
LITIGATION

MDL No. 1456

Civil Action No. 01-12257-PBS

**OPPOSITION OF PLAINTIFF BLUE CROSS AND BLUE SHIELD
OF MASSACHUSETTS, INC. TO TRACK TWO DEFENDANTS’
EMERGENCY MOTION TO EXPEDITE BRIEFING**

On February 28, 2006, the Track Two Defendants filed a motion to compel directed, in part, against Plaintiff Blue Cross and Blue Shield of Massachusetts, Inc. (“BCBSMA”), referred to hereinafter as the “Track Two Defendants’ Motion to Compel.” See Docket Entries 2162-2164. BCBSMA’s opposition is currently due on March 14, 2006. At roughly 3 p.m. on Friday, March 3, 2006, BCBSMA’s counsel received a telephone call from counsel for the Track Two Defendants indicating that the Track Two Defendants intended to file a motion for expedited briefing and hearing.

As the Track Two Defendants undoubtedly know, the Track One Defendants have currently scheduled depositions of five BCBSMA employees for the week of March 6, 2006 – one witness on each of the five business days. In addition to having to defend these depositions, BCBSMA still must prepare some of the witnesses for the depositions and respond to any requests that may arise out of the depositions. Accordingly, BCBSMA will not have a sufficient opportunity to respond to the Track Two Defendants’ Motion to Compel by March 9, 2006, particularly given the Track Two Defendants’ decision to wait until late Friday afternoon to inform BCBSMA of their desire for expedited briefing.

Furthermore, as indicated above, under Local Rule 7.1(B)(2), BCBSMA's opposition to the Track Two Defendants' Motion to Compel is due on March 14, 2006. While the Track Two Defendants' Emergency Motion cites the need for an expedited review, it provides absolutely no rationale justifying the need to receive BCBSMA's opposition on March 9, 2006 instead of March 14, 2006. Indeed, unless the Track Two Defendants believe that the Court intends to schedule a hearing prior to March 14, 2006, there is no legitimate basis for expediting the briefing of this matter.

Therefore, BCBSMA requests that the Court deny the Track Two Defendants' request for expedited briefing, so that BCBSMA's opposition to the Track Two Defendants' Motion to Compel will remain due on March 14, 2006. BCBSMA has no objection to the Court's setting a hearing on that motion, at the Court's convenience, on any date after March 14, 2006.

Respectfully Submitted,
BLUE CROSS AND BLUE SHIELD OF
MASSACHUSETTS, INC.
By its attorneys,

/s/ Stephen L. Coco
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Dated: March 6, 2006

CERTIFICATE OF SERVICE

I hereby certify that I, Stephen L. Coco, an attorney, caused a true and correct copy of the foregoing OPPOSITION OF PLAINTIFF BLUE CROSS AND BLUE SHIELD OF MASSACHUSETTS, INC. TO TRACK TWO DEFENDANTS' EMERGENCY MOTION TO EXPEDITE BRIEFING to be served on all counsel of record electronically, pursuant to Section D of Case Management Order No. 2, this 6th day of March, 2006.

/s/ Stephen L. Coco _____
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